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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,433	10/09/2001	Michael B. Dancu	1626-1116	6287

7590 10/01/2004
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EXAMINER

REDDING, DAVID A

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,433

Applicant(s)

DANCU ET AL.

Examiner

David A Redding

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-32 and 49-54 is/are allowed.
- 6) ☒ Claim(s) 1-11, 22, 24-26, 33, 35-37 and 48 is/are rejected.
- 7) ☒ Claim(s) 12-21, 34 and 38-47 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

The amendment filed 2/4/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the amendment to the specification at pages 7,10,14,23,25,27. It is unclear from the amendment what text was added or deleted by the amendment. Applicant must provide a marked up copy of those pages amended showing both the added and deleted material.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11,22,24-26,33-37,48, are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,92,603 (Dunkelman et al.).

Figures 1 and 2 illustrate the embodiment which is considered to read on the claimed device. The device is disclosed for the sterilization, seeding, culturing, storing, shipping, and testing of vascular grafts. Specifically, the patent describes an apparatus and method for sterilizing vascular grafts and then seeding and culturing the grafts with human cells, resulting in grafts populated with viable human cells (col.1, lines 13-18).

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Figure 1 shows a vascular graft (26), a reservoir (10) containing culture medium, a pump (16) on one end of the graft (26) and a pump (12) on the other end of the graft (26). The pumps force fluid out of the reservoir (10) through pump (12) into chamber (14) through outlet (30) into flow line (22). Pump (16) urges fluid in the same direction through line (24) into the vascular graft (26) and out of the chamber (14) and through outlet (30) into flow line (22). The pump (12,16) are controlled by timers.

Claims 1-11,22,24-26,33,35-37,48, are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,792,603 (Dunkelman et al.).

The Dunkelman et al. patent discloses a device similar to the claimed invention as illustrated in figure 3. Figure 3 shows a pump (36) connected to a flow line (37) connected to a venturi tube (38) which is in flow communication with a treatment chamber (22) containing a vascular graft (24). The venturi tube is considered to be equivalent to a second pump in acting to push or pull fluid through the graft (24).

Allowable Subject Matter

Claims 12-21,34,38-47, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 27-32,49-54 are considered to be allowable over the prior art of record.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art references are generally related to the claimed invention.

Applicant is requested to provide copies of the non-patent references cited in the specification since they are not readily available to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Redding whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D.A.R.

DAVID A. REDDING
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